

1-1-1989

# Washington report, vol. 18 no.27, September 11, 1989

American Institute of Certified Public Accountants.

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## Recommended Citation

American Institute of Certified Public Accountants., "Washington report, vol. 18 no.27, September 11, 1989" (1989). *Newsletters*. 1211.  
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# Washington Report

September 11, 1989, Volume XVIII, Issue 27

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## SECURITIES AND EXCHANGE COMMISSION

Applications for Professional Accounting Fellows in the Office of the Chief Accountant are now being accepted by the SEC. During their two-year term, the SEC said, the Fellows will work directly with the Chief Accountant, and will be involved in the study and development of rule proposals under the Federal securities laws, liaison with professional accounting standard-setting bodies, and consultation with registrants on accounting and reporting matters. Specific work assignments will be developed jointly by the Chief Accountant and the Accounting Fellows. Typically, assignments will involve areas in which the Accounting Fellows will be expected to develop innovative ideas and problem-solving concepts within the framework of SEC accounting policies and generally accepted accounting principles. Globalization of international securities markets, auditor's responsibilities, and internal control reporting are three of the projects in which it is expected that the Fellows will be involved during the next two years. Chief Accountant Edmund Coulson said that candidates for the Fellow position should have at least six years of experience in a public accounting firm or in an organization that provides similar experience in financial accounting and reporting. In addition, a minimum of one year of this experience must have been at a managerial level. Applicants should be thoroughly familiar with the technical accounting and auditing literature as well as current issues confronting the profession. Applicants must submit by 12/31/89 background information and a brief position paper on an accounting subject of interest to them and to the SEC. The Fellows will be selected in early 1990. A description of the program and application procedures are available from the Office of the Chief Accountant, SEC, 450 Fifth St., N.W., Washington, D.C. 20549.

## TREASURY, DEPARTMENT OF

Guidance on valuation freezes has been issued by the IRS in Notice 89-99. The IRS said the notice provides guidance with respect to selected issues arising under section 2036(c) of the Internal Revenue Code of 1986, which was added to the Code by the Omnibus Budget Reconciliation Act of 1987 and amended by the Technical and Miscellaneous Revenue Act of 1988. Generally, the IRS said, section 2036(c) will not apply to arrangements exclusively involving personal use property unless the personal use is subordinate to significant business or investment purposes. Life insurance and an individual's personal residence are considered by the IRS as property that "has such a significant personal dimension that it cannot reasonably be viewed as the subject of an enterprise." The IRS also said it does not believe that Congress intended to treat a person as holding an interest in an enterprise "merely because such person is involved in another's business or investment activities in an incidental or tangential way." The notice also outlines the guidelines the Service will follow in determining safe harbors, as well as addresses the spousal unity rule, consideration, and the correction period. The IRS said that taxpayers could rely on the notice with respect to the matters specifically addressed and that any provisions of forthcoming regulations that are inconsistent with the notice and generally adverse to taxpayers will be applied prospectively only. Notice 89-99 is scheduled to be published in Internal Revenue Bulletin 1989-38, dated 9/18/89. For further information after reading the notice, contact Fred E. Grundeman at the IRS between 1:00 p.m. and 3:00 p.m. EDT at 202/535-9512.

In the Congress, legislation has been introduced in the House of Representatives and the Senate to repeal section 2036(c). The Senate Finance Committee held a hearing on the subject in May; hearings have not been held in the House.

TREASURY, DEPARTMENT OF

Treatment of dual consolidated losses is the subject of temporary and proposed regulations issued by the IRS (see the 9/8/89 Fed. Reg., pp. 37314-24 and pp. 37346-47). The IRS said the regulations relate to the definition of dual consolidated losses for purposes of determining whether the net operating loss of a domestic corporation is available to reduce the taxable income of any other member of its affiliated group. Generally, the regulations outline the rules describing those net operating losses of domestic corporations that are not available to reduce the income of any other affiliate. Certain exceptions and special rules are also outlined in the regulations. The regulations are necessary, the Service said, to provide guidance to domestic corporations which are subject to an income tax of a foreign country and to other members of such corporations' affiliated group. The temporary regulations are effective 9/8/89 with respect to taxable years beginning after 12/31/86. Written comments and requests for a public hearing must be delivered or mailed by 11/7/89. For further information after reading the temporary and proposed regulations, contact David I. Bower of the IRS at 202/566-6645.

Real estate mortgage investment conduits (REMICs) are the subject of temporary and amended proposed regulations issued by the IRS (see the 9/7/89 Fed. Reg., pp. 37098-107 and pp. 37125-27). These newly-issued regulations replace temporary regulations published in the 3/9/88 Federal Register (see the 3/14/88 Wash. Rpt.). The IRS provided advance notice of the issuance of the new regulations in Notice 89-72, which was published in Internal Revenue Bulletin 1989-26, dated 6/26/89 (see the 6/19/89 Wash. Rpt.). The IRS said the amended proposed regulations prescribe the manner in which an entity elects status as a REMIC for Federal income tax purposes and the procedures to be followed when filing a Federal income tax return as a REMIC. The proposed regulations also require REMICs and certain other issuers to file information returns with the IRS and to provide notice to holders of REMIC interests or other debt instruments to which section 1272(a)(6) of the Internal Revenue Code applies to income and certain allocable expenses attributable to their interests. The temporary regulations also include provisions relating to the reporting requirements and other administrative matters with respect to interests in REMICs and other debt instruments to which section 1272(a)(6) applies. The regulations are proposed to be effective after 12/31/86, except in certain specified instances. Written comments and requests for a public hearing must be received by 10/10/89. For further information after reading the temporary and proposed regulations, contact Laura Ann M. Lauritzen at the IRS at 202/566-6624.

Guidance is provided by the IRS on the tax consequences of transactions involving the receipt of financial assistance from Federal agencies and the acquisition of financially troubled institutions pursuant to the provisions of the recently enacted Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). The guidance is provided in Notice 89-102. The IRS said it intends to provide comprehensive regulations on these matters in the future and that the primary purpose of Notice 89-102 is to provide preliminary guidance and to solicit comments on the need for further guidance in areas not covered by the notice. Specifically, Notice 89-102 provides guidance on the application of new section 597 of the Internal Revenue Code, which was added by FIRREA, to certain transactions, including taxable acquisitions of financially troubled institutions, that involve the receipt of Federal financial assistance. The notice also provides guidance for 1) the tax consequences of other aspects of certain acquisitive transactions, including the effect of the creation of an interim financial institution on the tax attributes of a financially troubled

institution; 2) special rules for the application of Code sections 338, 382, and 1060; 3) the application of the original issues discount provisions to Agency debt instruments; and 4) the application of certain provisions of the consolidated return regulations. Notice 89-102 does not address the tax treatment of insured deposit transfers, the IRS said. Notice 89-102 is scheduled to be published in Internal Revenue Bulletin 1989-40, dated 10/2/89. For further information after reading the notice, contact Bernita L. Thigpen at the IRS at 202/566-3516.

**SPECIAL: CREATION OF FEDERAL CHIEF FINANCIAL OFFICER ENDORSED BY REP. HORTON**

Enactment of legislation to create a chief financial officer for the United States was endorsed by Rep. Frank Horton (R-NY) recently in a speech before the AICPA Sixth Annual National Governmental Accounting and Auditing Update Conference in Washington, D.C. Rep. Horton is the Ranking Minority Member of the House Government Operations Committee, which has jurisdiction over legislation creating a chief financial officer for the Federal government. Rep. Horton said creation of this position is "the next natural step" to bring effective management in Federal financial operations. He said that support for improved Federal financial management exists in Congress and the Administration, as well as the General Accounting Office, the Office of Management and Budget and the Office of Personnel Management. Rep. Horton said that legislation is being drafted by the staff of the Government Operations Committee and that he expects it to be introduced in the near future. He also said that the Committee will hold hearings on the issue this fall.

In a related action, the AICPA, which has long endorsed the creation of a chief financial officer for the Federal government, has scheduled a "by invitation only" colloquium on improved issues and solutions related to Federal financial management. The colloquium is scheduled for 12/11/89 in Washington, D.C.

For further information contact Shirley Twillman at 202/737-6600.

## ***AICPA Washington Report***

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